

The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1054

CORY ATKINS
STATE REPRESENTATIVE
14TH MIDDLESEX DISTRICT
ACTON, BOXBOROUGH, CONCORD
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Committees on
Vice-Chairman
Election Laws
Science and Technology
Redistricting

ROOM 26
TEL. (617) 722-2080
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March 18, 2003

The Honorable John Rogers
House of Representatives
State House, Room 243
Boston, Massachusetts 02133

Dear Mr. Chairman:

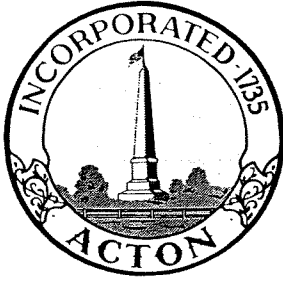
I wanted to take the opportunity to forward some important budgetary information from my district. I have had numerous conversations with the Town Managers from Concord, Carlisle, Acton, and Chelmsford. They recognize the incredibly difficult situation we face due to the fiscal crisis, and I asked them to identify their priorities for the upcoming year. I am enclosing for your review a copy of the information that several of these towns submitted to the Lieutenant Governor and to me.

I would greatly appreciate the opportunity to meet with you to discuss ways to integrate their suggestions, particularly the ones that will not cost the state any additional money, into the FY04 budget. I will have my aide call your office next week to set up a time to meet. Thank you in advance for taking the time to assist my district and me.

Sincerely,

Representative Cory Atkins
14th Middlesex District

cc: Governor Mitt Romney
Speaker Thomas Finneran
Don Johnson
Bernard Lynch
Madonna McKenzie
Chris Whelan



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February 10, 2003

The Honorable Kerry Healey, Lieutenant Governor
State House
Office of the Governor
Room 360
Boston, MA 02133

Dear Lieutenant Governor Healey:

The Acton Board of Selectmen and I wish to thank you for the opportunity to meet with you recently and exchange ideas for dealing with the current fiscal crisis in the Commonwealth. Your sincere interest in our views was obvious, refreshing and appreciated. Through dialogue of this nature, and working together, we are confident that we will find the necessary solutions to see the State and its political subdivisions through this period.

You have asked that we forward a list of the various areas where we think the Governor's Office and the Legislature could be helpful in relieving fiscal and regulatory restraints on the communities of the Commonwealth. We are pleased to offer the following thoughts and suggestions:

Middlesex Retirement System:

Acton is a member of the Middlesex Retirement System. The system recently announced that Acton, and many of the other members of the system, would receive a substantial increase in our annual assessment for FY04. The initial assessments proposed by Middlesex would have increased the assessments for many communities such that the Retirement System would have taken much or all of their allowable Proposition 2 ½ increases for the year. In Acton's case, it would have taken 60% of our allowable increase. After negotiations, the severely impacted members of the System were successful in having this increase reduced by nearly one-half. The System, in announcing these lower assessments, has cautioned that similarly large increases are now likely in future years.

During the course of addressing this problem, we have discovered some significant reporting, accountability and decision-making issues inherent in the structure of the Middlesex Retirement System. In order to address these concerns, a large portion of the constituent employers in the System have proposed a package of legislation aimed at returning oversight to the members. This legislation has been filed by Representative

William Greene of Billerica and is co-sponsored by Representative Cory Atkins of Concord. We would appreciate any help your office could offer in seeing this legislation through.

Department of Environmental Protection (DEP):

A number of policy decisions occur at the Department level that have significant impact on communities. These are not “mandates” such that the Commonwealth is obligated to pay their costs. Hence, we stressed during our meeting with you that the expression “un-funded mandates” should be understood to be much larger in scope than the defined term as used in Proposition 2 ½ discussions.

A specific example that I gave relates to technology described as a “tight tank” for collecting the runoff from floor drains in Municipal garages. This technology requires that all water entering the system be collected in a sealed tank and then hauled away for disposal as hazardous material (because it may or may not contain petroleum or other contaminants. In our case, our DPW facility was designed some years ago with a system that includes technology referred to as a “gas and oil separator”. This system allows drain water to enter the system, be separated from petroleum products if present, and then drain out to a leaching field. This system requires some regular maintenance, but it is considerably less expensive than the tight tank solution. As of this time, there has been no showing that this system fails to meet reasonable environmental standards. Nonetheless, it is our understanding that DEP is requiring the changeover to tight tanks simply because these systems are more easily monitored by DEP.

The potential capital costs of this policy, for the Acton DPW facility alone, are in the \$250,000 range, with tens of thousands of dollars in potential annual maintenance costs. Statewide, the costs will be staggering. We would seek relief from unnecessary policies that are instituted to save nominal administrative costs for the State while imposing exorbitant costs on the communities.

Department of Revenue (DOR):

There are any number of ways in which we might suggest streamlining the financial processes communities undertake with the Division of Local Services (DLS) at DOR. Examples include:

1. Streamline the Tax Rate setting process.
2. Move the mandatory Property Revaluation process and Certification from three (3) years to five (5) years. Communities incur substantial costs in this process. Reducing the frequent repetition would provide long-term savings.
3. Streamline the Tax Foreclosure process. This would strengthen our Tax Collection position and improve Cash Flows.
4. Streamline the Rollback Tax Collection process under Chapter 61. Again, this would reduce administrative costs and improve Cash Flow.
5. Streamline processes such as Schedule A, Free Cash certification, Tax Recap process, etc. All of these processes cost communities precious manpower. Moreover, in the Tax Recap process, DOR only credits a community with revenues at the level of proven collections from the year before. In other words, if

- a community institutes or increases a fee, credit for that increase is essentially withheld until the following year. This has a chilling effect on a community's efforts to increase Local Revenues and apply the increased revenue to the first year in which the increases are implemented. Again, this is a Cash Flow issue.
6. Eliminate state-mandated DOE audits.

Special Education (SPED):

Our Superintendent of Schools, William Ryan, spoke of the enormous costs incurred as a result of SPED and offered some suggestions for possible relief. These costs are seriously eroding local systems' ability to provide for the educational needs of the balance of our school population. Every school system in the Commonwealth needs your help in this regard.

Library Certification:

I described some of the cost-cutting measures we must employ in order to deal with substantial shortfalls in revenue for this year, next year and the foreseeable future. In spite of the fact that communities are stressed to provide core services, we are still faced with the threat that, unless we meet the spending thresholds established by the Board of Library Commissioners, we will lose certification of our libraries. With this comes the threat that our citizens will be denied access to libraries in other communities.

In a time when we must take extraordinary steps just to keep Public Safety forces viable, it is imperative that the onerous standards of the Library Commissioners be suspended, if not eliminated.

Police Matters:

There are many areas in which the Governor's Office might work to improve efficiencies in local Police operations:

1. Gun permits are cumbersome and expensive to administer at the local level. The town and state both share the revenue equally (\$12.50 each) while our costs to process an application are closer to \$200 per application.
2. The Sex Offender Registry requires extensive effort at the local level to process information and provide public notice. Frequently, after we have expended significant energies, the offender moves out of town or changes employment and the next town has to start the process all over again. Perhaps this registry should be maintained at the State level.

Health Insurance and Other Initiatives:

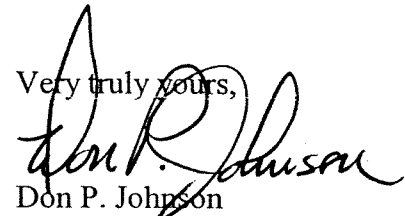
As always, municipalities struggle with the cost of Health Insurance. The Governor's recent proposal to reduce the maximum health insurance contribution rate for municipalities is more than welcome. Additionally, proposals to revise the Prevailing Wage Law, eliminate the Filed Sub-Bid Law and revise the Uniform Procurement Law will add enormous efficiencies and provide substantial cost-savings for communities. We applaud these initiatives.

Conclusion:

The issues noted above are not intended to represent an all-inclusive list. Indeed, they are only indicative of the many areas in which State and Local Government might partner in order to provide more efficient, cost-effective services for our citizens. The Town of Acton is eager to work with the Governor's Office and our Legislative delegation to confront and solve the significant problems facing the Commonwealth.

We thank you, once again, for taking the time to meet with us and seek our input.

Very truly yours,



Don P. Johnson
Town Manager

Cc: Senator Pamela Resor
Representative Cory Atkins
Representative James Eldridge
Acton Board of Selectmen



Bernard F. Lynch
Town Manager

Office of the Town Manager
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January 29, 2003

Representative Cory Atkins
State House
Boston, MA 02133

Cory
Dear Rep. Atkins:

Thank you for your recent letter regarding your efforts to work with municipalities to make changes in State laws and regulations which add cost to the operation of municipal government. It is crucial at all times, but particularly in times of fiscal constraints, that municipalities have the flexibility and power to determine what actions will best serve its citizens.

For several years the Town of Chelmsford has endorsed an agenda for our State government that would improve the ability of local government to deliver services in an efficient and effective manner. I am hopeful that the current economic conditions will finally allow these improvements to be implemented. I am forwarding these recommendations to you along with some additional ideas that are directly related to current conditions. The list is not exhaustive and may expand after further and continued analysis. I also expect that the Massachusetts Municipal Association will be providing additional recommendations.

I understand the State's budget problems and recognize the need for some reductions in aid to cities and towns. However, it is crucial that State government understands the importance of local government in providing crucial governmental services for the residents of the Commonwealth. For this reason, it is imperative that such reductions be minimized. Further, the reductions should be fair to all communities. Municipalities that have worked diligently to plan and prepare for the future by building reserves for specific purposes or to get through difficult financial times should not be penalized in the distribution of local aid reductions.

Again, thank you for your efforts in working with local governments. Please feel free to contact me if I can be of any assistance to you as this process moves forward.

Sincerely,

Bernard F. Lynch
Town Manager

BFL/jm

Enclosure

State Mandate Relief Measures and Local Aid Improvements

Mandate Relief

- **Public Construction Changes**

A major cost factor in public construction is a requirement that government pay “prevailing wages” that are often greater than the wages paid by local contractors. In addition, this requirement involves far more paperwork than local contractors are prepared or willing to take on for a one-time project. It is ironic that a law, which was initiated to encourage the award of contracts to local tradesmen, would have an opposite effect. At a minimum the law should be modified to allow greater flexibility for smaller construction projects.

Additionally, the State should reduce the restrictions on local government so as to permit innovative cost saving efforts such as design-build projects. At a minimum, the State should abandon the filed sub bid law, which reduces accountability in public construction projects and increases overall costs.

- **Increase Procurement Flexibility**

Local governments operate under cumbersome procurement laws and regulations that are expensive to implement and actually stifle competition and municipal innovation. These laws and regulations should be reviewed to increase threshold for formal bidding and streamlined to encourage communities to use innovative techniques.

- **Revise Chapter 40B**

Communities should be participants in determining how affordable housing is developed within their boundaries and that affordable units include Section 8 certificates, DMH and DMR units, and manufactured/mobile home units. Chapter 40B should be modified which respect local autonomy, encourage local/private partnership and count all affordable units within a community.

- **Remove Veteran’s Agent Requirement**

Currently, any municipality with a population of 12,000 or greater is required to hire full-time veterans’ agent. Since most communities have very low caseloads per year, employing a full-time agent is an unnecessary and significantly burdensome expense that communities must bear. Decisions regarding how veteran services are delivered should be an issue of home rule.

- **Reform Return to Work Rules for Previously Disabled Retirees**
 Chapter 306 of the Acts of 1996 made sweeping changes in the rules for returning previously disabled retirees to their prior position within local government. The changes contained in Chapter 306 have already had a severe negative impact on cities and towns by requiring communities to rehire employees who no longer meet the minimum qualifications for municipal employment, especially in the area of public safety. Despite a recent court decision that provides some safeguards, legislation should be enacted which would allow communities to establish standards for rehire of previously disabled employees, including background checks, fitness standards and retraining protocols. It is only logical that returning employees meet the same standards as existing employees.
- **Modify Chapter 111F**
 In Massachusetts, Firefighters and Police Officers are not covered by a municipality's workers compensation policy. Instead, there is a separate statute (Chapter 111F) that requires 100% salary replacement tax free when they are absent from work due to a job-related injury. In addition, Chapter 111F does not include the procedures and safeguards that are included in the State's workers' compensation statute. Massachusetts communities will save millions of dollars in the long term by replacing Chapter 111F with the workers' compensation law.
- **Modify Chapter 32B Bargaining Requirements**
 Like the private sector and the state, municipalities are experiencing dramatically escalating costs for employee health insurance. Unlike the private sector and the state, cities and towns are restricted from making changes to existing plans without extremely cumbersome collective bargaining procedures. The law should be modified to give greater control to municipal government.
- **Eliminate Civil Service**
 The states civil service system is an anachronism that no longer serves a useful purpose. Communities should be able to hire, promote and discharge employees based upon local determinations of merit. There is adequate protection of local government employees through federal and state employment law, and collective bargaining agreements.
- **Modify Municipal Unemployment Benefit Requirements**
 A municipality may be billed by the State for unemployment benefits for a part-time employee working for the city or town, who is laid off from his or her primary job. For municipalities using the "contributory financing method" for unemployment insurance, the State's unemployment solvency account is charged to cover the benefits. However, municipalities like Chelmsford using the "reimbursable financing method" or, self-insurance, are charged directly. There is legislation that would amend MGL Chapter 151A by exempting employers that self-insure for unemployment from paying unemployment benefits for their paid employees that are laid off from other employers.

- **Eliminate/Revise Library Spending Requirement**
State aid to municipal libraries is contingent upon adherence to state regulations that mandate increased annual library spending. The regulations fail to take into account fiscal limitations or the total and per capita spending that may be occurring within a community for library services. Given the current fiscal conditions of local government, this requirement should be eliminated.

Local Government Management Improvements

- **Pension Obligation Bonds**
Communities are working to pay down unfunded pension liabilities as required by state law. The deadline for full funding is 2028. One solution that is worthy of consideration on a community by community basis is utilizing pension obligation bonds that would raise the necessary funds that could be disbursed as needed while earning income in the meantime. With historically low interest rates for borrowing such bonds could be a useful tool for many municipalities.
- **Reform Quinn Bill and Modify Local Contractual Obligations**
In the late 1960's the State adopted legislation known as the Quinn Bill which recognized the importance of a well-educated police force. This statute established a percentage based financial incentive to officers that obtained college degrees. Unfortunately, this program has not received proper oversight resulting in an expensive program for the State and municipalities with college courses and degrees that are often lacking appropriate quality. The State should reform this program to increase oversight, improve course content and move the incentive to flat dollar amounts rather than percentage of salary.
- **Allow Greater and Flexible Use of Revolving and Special Funds**
 - Health Care
Cities and towns face huge unfunded liability exposure for health care costs for retired municipal employees and current law does not permit local government to set aside funds today for tomorrow's health care costs. While it is unlikely that communities could set aside funds in this fiscal climate, Legislation should be enacted which would allow municipalities to establish a post-retirement insurance liability fund and to appropriate sums to the fund to offset the anticipated cost of health insurance premium payments for retired employees pursuant to MGL 32B. Any interest generated would accrue to the fund. Communities should be allowed and encouraged to plan for funding these liabilities now rather than waiting for this "time bomb" to create a future crisis.

- Simplify Department Revolving Funds
Section 53E ½ of MGL Chapter 44 authorizes cities and towns to establish one or more revolving funds for individual municipal departments and to set a limit on expenditures from each fund with annual reauthorization. Legislation should be enacted which would eliminate the annual approval requirement and replace it with a one-time authorization by the local appropriating authority that would be revisited only to change the dollar limit or revoke the authorization. This bill would eliminate this cumbersome requirement and encourage communities to make effective use of pay as you go revolving funds that could be an alternative revenue source for many municipalities.
- Open Space
In recent years a significant number of cities and towns have submitted home rule petitions to establish a special fund for the exclusive purpose of purchasing open space. Such a special fund would allow municipalities to act expeditiously when open space becomes available within a community. Such funds go beyond the Community Preservation Act in dedicating local resources to acquire open space. A bill should be enacted which would create a general statute to permit cities and towns, at local option, to establish a special fund for open space as communities should be allowed to create and manage simple tools that are basic to the concept of home rule.
- Capital
Legislation should be enacted which would authorize cities and towns to establish general or special purpose capital or other funds for use under such conditions that may be established locally through ordinance or bylaw. This is a simple case of home rule and allowing municipalities to manage themselves.
- MGL Chapter 44, Section 53G
Municipal Planning and Appeals Boards are able to establish revolving accounts funded by property developers to hire outside technical experts that assist the review process. However Conservation Commissions are not included in this statute. Legislation should be adopted to include all boards and committees that review development proposals.
- **Fund Transfer Powers to Municipal Executive**
Under section 33B of Chapter 44 of the General Laws, a “town may, by majority vote at any meeting duly held, transfer any amount previously appropriated to any other use authorized by law.” The provision is cumbersome at the end of a fiscal year as small transfers between departments necessitate the call for a special Town Meeting. Legislation has been filed in the past, which would authorize, through bylaw, the municipal executive, with the approval of the Finance Committee, to transfer a limited amount of funds from one account to another at the end of a fiscal year. We urge you to support legislation that will increase local ability to manage effectively.

- **Allow Local By-laws to Regulate Utility Road Cuts**

The Supreme Judicial Court has struck down local bylaws that protect communities from having to expend thousands of dollars annually to restore roads and sidewalks that are disfigured or made dangerous due to improper restoration work done by utility companies. These bylaws would have required utilities to pay maintenance and inspection fees as a prerequisite to opening a public way.

Legislation should be enacted which would return to cities and towns the authority to enforce utility street cut repair standards, to recover costs of enforcing or repairing utility street cuts, and allow cities and towns to charge reasonable excavation permit fees. This will allow communities to protect the investments that local taxpayers have made in roadways and sidewalks

Education Reform Act Modifications

- **Revise state requirements for school computer purchases**

The State mandates that communities keep pace with regard to computer purchases. In this financial crisis, the State should rethink their expectation thereby saving communities thousands of dollars that could be used for direct teaching.

- **Revise state requirements for teacher professional development**

The State mandates an expenditure of \$150 per student for professional/staff development. Communities meet this requirement but the state should adjust this commitment over the next two years thereby allowing more funds directly to students.

- **Revise state requirements for science and technology**

The State has mandated engineering courses and facilities in order to provide a comprehensive science/engineering course sequence. This mandate increases municipal personnel commitments during a period of contracted revenues.

- **MCAS Revisions**

The MCAS test is essentially a “high stakes” mandate with substantive dollar implications. Rethinking the MCAS test is a way of altering a mandate that can become quite expensive.

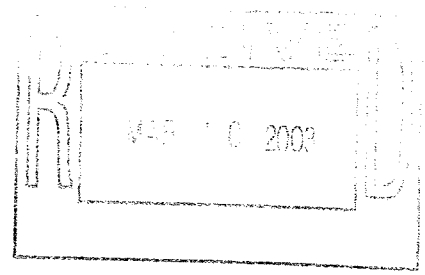
Local Revenue Enhancements

- **Municipal Taxation Authority to Cover State Property Lessees**
Under various general and special laws, property leased by commercial enterprises on land owned by public authorities, including certain land on State agency property is exempt from the property tax. It is essential that communities be allowed to receive property taxes from such enterprises to enhance the local revenue base and to insure a level playing field to local businesses.
- **Exempt Overlay from Prop. 2 ½ Limits**
Each year each community in the Commonwealth sets aside an amount of money from the Proposition 2 ½ limited tax levy for tax abatements and tax exemptions for eligible elderly and disabled residents. These funds are not used for town services but in fact go towards a reduction of individual taxes. Accordingly, the amount set aside for this purpose should not be included in the levy limit established under Proposition 2 ½.
- **Allow Local Impact Fees**
Many other states provide municipalities the ability to charge impact fees on new developments in order to mitigate the capital costs associated with growth. A constitutional change will allow Massachusetts to utilize this technique of growth management for funding infrastructure and facilities such as schools. This modification to the State constitution, which will benefit municipalities and their residents, is long overdue.
- **Modify MV Excise Tax Program: Increase and Depreciation Schedule**
There have been several ideas released over the last few months regarding modifications to the Motor Vehicle Excise Tax formula. These changes have included increasing the rate and/or modifying the depreciation schedule to reflect increased retention of value. Each of these changes in a program that has been unchanged for more than twenty has merit and would create additional revenue for municipalities.
- **Local Meals Tax**
Massachusetts' municipalities are dependent upon the regressive and limited property tax and revenue sharing from the Commonwealth. With growing costs and decreased revenue it is imperative that communities are provided other opportunities to gain the resources in order to provide needed municipal services. A local option meals tax of up to 3% would provide needed revenue to cash strapped communities without a sizable impact upon the residents of each city and town.

- **Wetlands Protection Act Fees**
Each community of the Commonwealth is charged with the enforcement of the state Wetlands Protection Act through reviews by local Conservation Commissions and municipal staff. The Commonwealth has established a fee structure which is shared by the state and the municipality. Unfortunately, these fees were put in place approximately ten years ago and need to be revised to reflect current day costs.

Local Aid Improvements

- **Improved Chapter 70 Formula**
The Education Reform Act of 1993 established a formula for distribution of state aid for education with the supposed purpose of providing a level playing field for all communities. Unfortunately, the formula included hold harmless provisions which maintained built-in inequities which short change numerous local governments. Analyses conducted by the League of Women Voters, the Suburban Coalition, other organizations and the previous state administration have documented the inequities of the current Chapter 70 formula. The plans to maintain Chapter 70 funds during state aid cutbacks will only exacerbate the problem caused by this flawed formula. The Chapter 70 formula was scheduled to be reworked in 2000, yet today remains unchanged. With the overall reduction of aid to cities and towns, this program should be revamped.
- **Fund SPED 50/50 program**
A major mandate of state and federal government is the special education program whose costs are passed on to municipalities. A major step occurred in 2002 with a modification in the standard of service and a commitment by the state to share costs on a 50/50 basis. To date this commitment remains a broken promise. With the shortfalls of the Chapter 70 program numerous municipalities receive less education aid than that which they should receive. The 50/50 program should be funded by the state as soon as possible as part of the overall commitment to education.
- **Pre-school Reimbursement**
Municipalities provide important pre-school programs to children requiring special education. This worthwhile program should receive support and assistance from the state.
- **Charter School Reimbursement**
The state has promoted the concept of charter schools as an alternative to established public schools. This initiative of innovation may prove advantageous for the Commonwealth. Unfortunately, the loss of aid reflecting the transfer of students from local schools penalizes those students who have remained as fewer resources are available. The expectation that students leaving a school to attend a charter school will result in immediate dollar for dollar savings is unfortunately not reasonable. Accordingly, at a minimum the state should maintain a system of decreasing reimbursement for new students attending a charter school.



Bernard F. Lynch
Town Manager

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March 6, 2003

Representative Cory Atkins
State House
Boston, MA 02133

Dear Rep. Atkins:

A situation has developed that deserves immediate attention. As in past years, Chelmsford has qualified for a recycling incentive grant, but recently has not received the grant payment due to internal decisions being made at the State level.

Funds for the grant program were appropriated by the Legislature. These funds come from unclaimed nickels from the Bottle Bill (no tax dollars involved). Department of Revenue officials have verified that more than \$20 million generated from unclaimed nickels is currently available in the Clean Environment Fund. These grant funds are used in part to help pay for implementing State mandated trash and recycling related regulations and programs.

Chelmsford and other communities have already been severely impacted by two municipal recycling grant cuts announced this past fall by the Department of Environmental Protection (DEP):

- Whereas approximately 200 communities usually receive Municipal Equipment Grants (e.g. educational mailer to residents, recycling bins and totes) annually, DEP has indicated that approximately only 20 will be awarded this year.
- Secondly, for the past five years, there have been two payments annually in the Municipal Recycling Incentive Program (MRIP). Chelmsford has continually met an increasing number of eligibility requirements in order to participate in the grant program.

Several months ago, the DEP announced that they were cutting the MRIP program this year and there would only be one phase for eligible communities to participate. With this in mind, we met all necessary grant requirements and submitted relevant paperwork to the DEP in November. Chelmsford is due to receive approximately \$17,500 for having met Phase 1 requirements and increasing recycling tonnage. A recent conversation with the DEP indicated that although many municipalities have qualified, the administration is putting a hold on making grant payments.

Representative Cory Atkins
Page Two
March 6, 2003

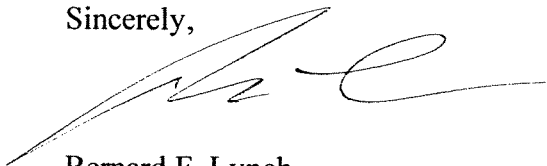
We seek your assistance in ensuring that these funds are released to the Town of Chelmsford, and ask that you take the following actions:

1. Please call Ellen Roy Herzfelder, Secretary of Environmental Affairs at 617 626-1000 and ask why the MRIP Phase 1 grant funds to eligible communities are not being distributed. These funds are available in the Clean Environment Fund account, are generated from unclaimed nickel deposits, earmarked for recycling purposes and were appropriated by the Legislature.
2. Please ensure that language that was vetoed from last year's budget by Acting Governor Swift gets restored in the budget for FY04. During these difficult fiscal times, it is important to note that restoring this language would not require any increase in funding in the line item but would simply ensure that two important, long standing municipal grant programs are continued. In line item 2010-0100, the following language that was vetoed needs to be inserted in the FY04 budget to ensure Chelmsford can participate in these grant programs next fiscal year:

" provided further, that not less than \$125,000 shall be expended for a public education campaign to encourage participation in existing curbside pick-up recycling programs for the city of Boston; provided further that, not less than \$1,250,000 shall be expended on municipal equipment grants; provided further that, not less than \$2,525,000 shall be expended on municipal recycling incentives; "

As evidenced by Chelmsford qualifying for MRIP grants, we have been doing our part to help implement the Commonwealth's solid waste master plan. Now is the time to ensure our state officials do their part to provide some assistance to Chelmsford and other municipalities. Please do not hesitate to contact me for additional documentation or questions and thank you for your consideration.

Sincerely,



Bernard F. Lynch
Town Manager

BFL/jm

cc: K. Bell, Recycle Coordinator

CONCORD/CARLISLE REGIONAL SCHOOL COMMITTEE
Ripley Administration Building
120 Meriam Road, Concord, MA 01742

FEB 25 2003

February 21, 2003

Representative Cory Atkins
State House, Room 26
Boston, MA 02133

RE: Regional School Transportation

Dear Representative Atkins:

The recent cuts in the State FY2003 Regional Transportation Budget and the projected cuts in FY2004 are exacerbating the fiscal difficulties in an already tight education budget at Concord-Carlisle High School. Our regional district originally expected \$320,000 from the State for regional transportation. However, after cuts were made, we were promised \$190,000. To date we have received \$100,000. Will we receive the remaining \$90,000? Planning for the remainder of the school year with such uncertainty is very difficult, and using dollars already budgeted for education to pay transportation costs is very painful.

To add to the budgeting problems caused by this State reduction in regional transportation, regionalized districts by law are not able to recapture this revenue in the form of transportation fees as non-regionalized high schools are allowed to do. Thus, transportation money must be found by diverting funds from educational programs. This is no small matter in regionalized districts where costs for transportation are increased due to the distances traveled between towns.

It is our districts' preference that the Governor and the Legislature fully fund the Regional School Transportation Account to enable districts to use their dollars for the education of students. However, if there is an insistence on cutting the Account, we strongly urge the Legislature to reconsider the mandate that requires free transportation in regional districts.

We would appreciate hearing your thoughts on the budget crisis and what steps the Legislature is taking to alleviate the burden all districts are facing.

Sincerely,



Rebecca Shannon
Concord-Carlisle School Committee

Cc: Senator Susan Fargo
Superintendent Gene Thayer
Concord Board of Selectmen
Carlisle Board of Selectmen
Concord Finance Committee
Carlisle Finance Committee



OLD NORTH BRIDGE

January 24, 2003

TOWN OF CONCORD

BOARD OF SELECTMEN'S OFFICE
22 MONUMENT SQUARE - P.O. BOX 535
CONCORD, MASSACHUSETTS 01742

TELEPHONE (978) 318-3001

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Lieutenant Governor Kerry Murphy Healey
State House - Office of the Governor
Room 360
Boston, MA 02133

Dear Lieutenant Governor Healey,

I am writing to you on behalf of the Concord Board of Selectmen to share our thoughts concerning the planned reductions in Local Aid from the Commonwealth and to provide some ideas about how State government can assist cities and towns in their efforts to streamline local government and use our limited resources most effectively.

First, we would like to applaud Governor Romney's announced intentions to endeavor to the greatest extent possible, to allocate reductions in State aid in a fair and equitable manner. As you know, State funding formulas already reflect the legislature's efforts to provide significantly more aid to more needy districts, and that many communities receive only "minimum aid" from the Commonwealth. We think that the across-the-board reduction method represents the fairest way to implement reductions in aid that has been distributed substantially on needs-based formulae.

Also, we believe there are many no-cost or low-cost ways in which State government could ease the burden on cities and towns trying to provide critical services to the public, easing mandates and eliminating regulatory hurdles. The Massachusetts Municipal Association's legislative agenda provides a good summary of cost-cutting measures that would be of enormous assistance to our community. Some of the proposals that would be of significant, immediate assistance to Concord include:

1. *Special Education Costs.* Take steps to make the allocation of Special Education Services less litigious and less costly for communities. Those towns which work hard to provide excellent Special Education services find their programs attracting residents to their communities largely on the basis of these exemplary services. The Commonwealth should make it easier for communities doing their best in this area to have flexibility in providing services.
2. *Exempting Cities and Towns from Certain Provisions of the Prevailing Wage Laws* Many smaller communities are required to pay the prevailing wage rate for projects based on the labor market in more economically expensive regions of the state, which greatly increases the percentage of project dollars spent on a project. The bill would

greatly increases the percentage of project dollars spent on a project. The bill would exempt from the prevailing wage law construction projects of \$100,000 or less and/or communities with a population of 5,000 or less. This would allow for needed repairs and compliance issues.

3. *Allow Towns to Regulate the Excavation of Public Ways by Utility Companies.*
The Supreme Judicial Court has struck down city ordinances designed to protect communities from having to expend thousands of dollars annually to restore roads and sidewalks that are disfigured or made dangerous due to improper restoration work conducted by utility companies. The ordinance would have required utilities to pay maintenance and inspection fees as a prerequisite to opening a public way.
4. *Authorize the Utilization of a Design-Build Construction Delivery Method in Horizontal "Public Works" Construction Projects.* Massachusetts requires that public works "horizontal" construction projects be designed, bid, and constructed in accordance with the provisions of G.L. c. 30, § 39M and related statutes. The public construction laws presently require one entity (typically a designer) to design the project and the specifications, and another separate entity (the contractor) to perform the work in accordance with the specifications, after submitting bids in accordance with the statute. In recent years, several public construction projects have been built in the Commonwealth pursuant to home rule legislation, and throughout the country generally, utilizing a "design-build" method of construction delivery..
5. *Increase the Threshold for Application of the Filed Sub-bid Law.* Application of the filed sub-bid laws to projects where the work of a covered sub trade is estimated to exceed \$10,000 substantially increases the cost, complexity, and delay of completing small projects. For example, G.L. c. 149, § 44F requires the awarding authority to prepare and issue separate specifications for 17 sub-trades to the extent that the estimated value of the work for each sub-trade exceeds \$10,000. The \$10,000 threshold has not been adjusted for inflation for many years. The modest threshold often precludes cities and towns from completing work in a timely and cost-effective manner. Indeed, in some cases cities and towns have been unable to secure any bids at all for sub-bid work of lower value.
6. *Increase the Threshold for Application of Public Construction Bidding Requirements.* Compliance with the Massachusetts public construction statutes, particularly for smaller projects often sponsored by cities and towns, frequently results in undue delays and additional expense. Moreover, municipalities have faced situations where they have been unable to obtain any bids at all on small projects exceeding the \$25,000.00 threshold, thus delaying the completion of smaller (but important) municipal projects. Increase to \$250,000 the threshold set forth in G.L. c. 149, § 44A requiring that public "building" contracts for more than \$25,000.00 be awarded to the "lowest responsible and eligible bidder on the basis of competitive bidding.
7. *Eliminate the Requirement for Full-time Veterans' Agents.* Any municipality with a population of 12,000 or greater is required to hire a full-time veterans' agent. Since most communities have very low caseloads per year, employing a full-time agent is a significantly burdensome expense that communities must bear. The Commonwealth should remove the population requirement to allow a community the option of hiring a

- full- or part-time veterans' agent, or share the cost of a veterans' agent with other contiguous communities.
8. *Allow Cities and Towns to Procure Contracts for the Design, Construction, Financing and Operation of Wastewater and Water Treatment Facilities.* Under current public construction laws, cities and towns cannot procure, in a single contract, design, construction, financing and operation services for wastewater and water treatment facilities. Instead cities and towns are required to get permission from the legislature on a case by case basis. The bill would allow cities and towns, at local option, to issue a request for proposals, in compliance with the Uniform Procurement Act, for the design, construction, financing and operation services of wastewater, and water treatment facilities. Such contracts would be exempt from the designer selection laws and public building and public works construction laws. Projects that use this process would be required to sign a project labor agreement and would be subject to the prevailing wage law. The primary benefit of the bill would be to allow innovative and cost effective options for the construction of local environmental projects.
 9. *Simplify and Improve Municipal Borrowing Procedures,* eliminating a wide variety of obsolete and overly-restrictive requirements and limitations that result in unnecessary labor and expense.
 10. *Permit the Taxation of Businesses on State Authority and Agency Property*
Under various general and special laws, property leased by commercial enterprises on land owned by public authorities, including certain land on state agency property, is exempt from the property tax. In 1995, cities and towns were authorized to tax commercial enterprises on Massachusetts Turnpike Authority property [section 204 of Chapter 38 of the Acts of 1995]. This proposal would extend the Chapter 38 provisions governing taxation of MTA property to other state authorities, including the Massachusetts Bay Transit Authority (MBTA) and other transit authorities, the Massachusetts Port Authority (MassPort), the Woods Hole Martha's Vineyard and Nantucket Steamship Authority, The Massachusetts Convention Center Authority (MCCA), and the Massachusetts Water Resources Authority (MWRA). It would also extend similar provisions to property owned by state agencies.
 11. *Reform to the Police Career Incentive Pay Program.* Strengthen the academic requirements needed to qualify for Quinn bill payments by requiring degrees in Criminal Justice or Law degree in order to qualify for the Quinn bill and by Prohibiting the granting college credit for life experience, courses taught professors lacking appropriate college degrees, and courses lacking appropriate academic and scholarly content and research. In addition the bill would clarify that cities and towns are only responsible for their share of Quinn bill payments and that in the event that the state does not make the appropriate Quinn bill appropriation that cities and towns are not responsible for the state's share of the program.
 12. *Reforming the Return to Work Rules for Previously Disabled Retirees.* Establish standards for rehire of previously disabled employees, including background checks, fitness standards and retraining protocols.
 13. *Permit Cities and Towns to Create a Retiree Health Care Benefits Fund*
Cities and towns face huge unfunded liability exposure for health care costs for retired

municipal employees. Current law does not permit local government to set aside funds today for tomorrow's health care costs.

14. *Revise and Clarify Unemployment Benefits.* Amend MGL Chapter 151A by exempting employers that self-insure for unemployment from paying unemployment benefits for their paid employees that are laid off from other employers.

These are but a few of the many steps the Commonwealth can take to make it easier and less costly for cities and towns to provide services to their residents. As elected officials, we recognize that municipal government is going to have to do business differently in this contracting economy, and will have to search out ways to use resources more efficiently. The unreasonable and anachronistic rules imposed on cities and towns by the Commonwealth represent a significant impediment to making municipal governance more stream-lined and business-like.

We look forward to working with you and with Governor Romney and his administration in our efforts to provide excellent public services in the most cost-effective way possible. Thank you for your consideration of our concerns and suggestions.

Sincerely,



Gary R. Clayton, Chairman
Board of Selectmen

Cc: Finance Committee
School Committee
Town Manager

Group Benefits Strategies

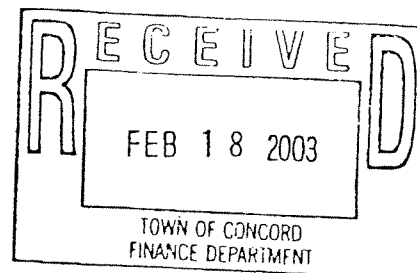
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CC: Chris
Dany
Amy

February 15, 2003

Robert Edgren, Legislative Aide
Senator Stan Rosenberg
Statehouse, Room 320
Boston, MA 02133



RE: Suggestions to mitigate against local aid cuts

Dear Mr. Edgren:

I am writing at the suggestion of Town of Concord's Finance Director, Tony Logalbo, to propose legislation that will help towns and districts to cope with revenue problems and specifically with rising health benefits costs. This legislation will target those governmental employers that are taking advantage of Chapter 32B, Section 12 and joint purchasing health benefits.

The Town of Concord participates in the Minuteman Nashoba Health Group (MNHG), a municipal joint purchase group for health insurance that has been operational since 1990. The MNHG is organized under MGL Ch. 32B, Section 12. There are 14 governmental employers pooling risk and providing health insurance through self-funded arrangements with Tufts Health Plan and Harvard Pilgrim Health Care. A list of the MNHG participating towns and districts is enclosed. The participants believe that being in a larger group has been beneficial to employees and to the employers.

There are eight Ch. 32B, Section 12 joint purchasing groups in MA, and more than 135 governmental employers are purchasing health benefits from these groups. See the enclosed list of participants in seven of these groups. The legislature created the option for towns and districts to pool together to negotiate and purchase health benefits believing that this was in the employers' and employees' financial best interest. The joint purchase group participants believe that this was a wise decision by the legislature and do not want to see the intent or the practice derailed, and yet that is what is happening as a result of a 2002 Labor Relations Commission decision.

In April 2002, the Labor Relations Commission ruled in the Town of Dennis case that employers participating in joint purchase groups must bargain decisions to change benefits made by the Group. Until this time, the participants had reasonably believed they were required to bargain over the impact of decisions made by the Group. A *decision* bargaining obligation makes it extremely difficult or impossible for a Group to make the changes required to keep pace with medical inflation. It is unlikely that all employers in a Group could get agreement or reach impasse with all unions in any reasonable time for even the simplest benefit change such as adjusting a prescription drug co-pay to re-balance employer vs. employee share of prescription drug costs. The larger the group, the more cost-effective it should be yet with an obligation to decision bargain over changes, a large group would be rendered ineffective, thus defeating the purpose of the Ch. 32B, Section 12 legislation. With an *impact* bargaining obligation, a Group could go forward with a change as scheduled even if all employers have not come to agreements

with all unions. The benefit change could be implemented, and the unions and management could continue to bargain over the impact.

The Joint Purchase Groups, the MMA, and Mass Interlocal Insurance Agency (MIIA) have formed a coalition to address the problems that "Dennis" has caused. The coalition has determined that a legislative solution is the only remedy that will work. I have enclosed two legislative proposals drafted by Attorney Kevin P. Feeley, Jr. of the labor law firm of Collins, Loughran, & Peloquin. Please consider adding these or a similar approach to your legislative proposals to aid municipal employers. I would be pleased to speak with you or a representative of your staff about joint purchase groups and the Dennis decision.

Yours truly,



Carol G. Cormier, MHA, LIA, CIC

Enclosures: Participants of five MA municipal joint purchase groups
Proposed legislation drafted by Atty. Kevin Feeley
Coalition of Joint Purchase Groups – Problem Statement re Dennis case

Participants in Seven of the Mass. Municipal Joint Purchase Groups

Scantic Valley Regional Health Trust

Town of Hampden

Town of East Longmeadow

Town of Longmeadow

Town of Wilbraham

Hampden Wilbraham Reg. School District

Cape Cod Municipal Health Group

Mainland -

Barnstable, County of

Barnstable, Town of

Barnstable Fire District

Bourne Recreation Authority

Bourne Water District

Brewster, Town of

Buzzards Bay Water District

Cape Cod Collaborative

Cape Cod Lighthouse Charter School

Cape Cod Regional Transit Authority

Cape Cod Regional Technical High School

COMM Fire District

Chatham, Town of

Cotuit Fire District

Dennis, Town of

Dennis Water District

Dennis Yarmouth Regional School District

Eastham, Town of

Falmouth, Town of

Hyannis Fire District

Mashpee, Town of

Mashpee Water District

North Sagamore Water district

Nauset Regional School District

Orleans, Town of

Orleans Brewster Eastham Groundwater District

Provincetown, Town of

Sandwich, Town of

Sandwich Water District

Truro, Town of

Upper Cape Regional Technical School

Veterans Services of Cape Cod

Wellfleet, Town of

West Barnstable Fire District

Yarmouth, Town of

Martha's Vineyard

Chilmark, Town of

Dukes, County of

Edgartown, Town of

Aquinnah, Town of

Gosnold, Town of

Martha's Vineyard Refuse Disposal District

Martha's Vineyard Charter School

Martha's Vineyard Commission

Martha's Vineyard Landbank Commission

Martha's Vineyard Regional School District

Martha's Vineyard Regional Transit Authority

Oak Bluffs, Town of

Oak Bluffs Water Department

Tisbury, Town of

West Tisbury, Town of

Up-Island Regional School District

West Suburban Health Group

Towns of Dedham
 Town of Dover
 Town of Holliston
 Town of Hopkinton
 Town of Natick
 Town of Sherborn
 Town of Wayland
 Town of Walpole

Town of Wellesley
 Town of Westwood
 Town of Wrentham
 Dover Sherborn RSD
 ACCEPT Collaborative
 The Education Cooperative
 Town of Ashland

Berkshire Health Group

Town of Adams
 Town of Great Barrington
 Town of Lenox
 Adams Cheshire Reg. School District
 Berkshire Hills Reg. School District
 Central Berkshire Reg. School District

Mt. Greylock Reg. School Dist.
 No. Berkshire Reg. Voc-Tech. School District
 So. Berkshire Reg. School District
 Southwick Tolland Reg. School District
 Berkshire County Insurance Group (incl. 19 govt. employers)

Minuteman Nashoba Health Group

Town of Ayer
 Town of Bolton
 Town of Boxborough
 Town of Carlisle
 Town of Concord
 Town of Groton
 Town of Harvard

Town of Lancaster
 Town of Pepperell
 Town of Stow
 Town of Tyngsborough
 Concord Carlisle Reg. School District
 Lincoln Sudbury Reg. School District
 C.A.S.E. Collaborative

M.O.R.E. Health Group (Municipalities Organized for Regional Effectiveness)

Town of Auburn
 Berlin-Boylston Reg. School District
 Town of Boylston
 Town of Dudley
 Town of Grafton

Town of Holden
 Town of Rutland
 Town of Spencer
 Town of Shrewsbury

Franklin County Health Group

Mohawk Trail Regional School District
 Gill Montague Regional School District
 Franklin County Technical School
 Pioneer Valley Regional School District

Frontier Regional School District
 Hawlemont Regional School District
 Town of Ashfield

Draft Legislation #1*to Address Collective Bargaining Issues**Arising from LRC Decision in Town of Dennis case*

Be it enacted by the Senate and House of Representatives and General Court
Assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, any governmental unit, as that term is defined in Chapter 32B of the General Laws, shall be and is specifically exempt from any and all collective bargaining obligations, including though not limited to any collective bargaining obligation which may arise under Chapter 150E of the General Laws and/or any collective bargaining agreement concerning any change, alteration or elimination of any benefit or benefits offered by, through and/or pursuant to a governmental unit's membership in a joint purchase group or trust whether or not said joint purchase group is established pursuant to Chapter 32B of the General Laws or any other Act of General Law of the Commonwealth of Massachusetts.

SECTION 2. This Act shall take effect upon its passage.

Draft Legislation #2

to Address Collective Bargaining Issues

Arising from LRC Decision in Town of Dennis case

Be it enacted by the Senate and House of Representatives and General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 12 of Chapter 32B of the General Laws as appearing in the 2002 Official Edition is hereby amended by adding the following to the end of said Section 12 as a new paragraph:

Notwithstanding any general or special law to the contrary, governmental units shall be exempt from any obligation to bargain over the decision to change, alter or eliminate any benefit or benefits offered by or through a joint purchase group to eligible employees of a governmental unit. To the extent a governmental unit, which is a member of a joint purchase group, timely receives a request or requests to bargain over the impact of a change which has voted upon by a joint purchase group, the governmental unit shall comply with its obligation to bargain over the impact of any such change, though the pendency of any such collective bargaining negotiations shall in no way effect or limit a joint purchase group's ability to make said benefit changes, alterations or eliminations(s) to benefit plans offered to the eligible employees of each and every governmental unit which participated in the joint purchase group.

SECTION 2. This Act shall take effect upon its passage.

Draft Legislation #3

to Address Collective Bargaining Issues

Arising from LRC Decision in Town of Dennis case

Be it enacted by the Senate and House of Representatives and General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 12 of Chapter 32B of the General Laws as appearing in the 2002 Official Edition is hereby amended by adding the following to the end of said Section 12 as a new paragraph:

Notwithstanding any general or special law to the contrary, governmental units which provide any benefits authorized under this Chapter, by or through the governmental unit, participation in a joint purchase group or arrangement shall be exempt from any and all collective bargaining requirements and obligations concerning benefits offered by or through the joint purchase group which are changed, altered or eliminated by the joint purchase group.

SECTION 2. This Act shall take effect upon its passage.

Draft Legislation #4

to Address Collective Bargaining Issues

Arising from LRC Decision in Town of Dennis case

Be it enacted by the Senate and House of Representatives and General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 12 of Chapter 32B of the General Laws as appearing in the 2002 Official Edition is hereby amended by adding the following to the end of said Section 12 as a new paragraph:

Notwithstanding any general or special law to the contrary, governmental units shall be exempt from any obligation to bargain over the decision to change, alter or eliminate any benefit or benefits by a joint purchase group offered by or through a joint purchase group to eligible employees of a governmental unit.

SECTION 2. This Act shall take effect upon its passage.

Joint Purchasing Health Insurance After the Labor Relations Commission Decision in the Town of Dennis Case

Problem Statement

- In recent years health insurance costs have entered a period of steep inflation with no relief in sight. Rising prescription drug and hospital costs have combined to create tremendous volatility in the health care industry.
- Municipal governments attempting to provide high quality benefits for their employees have been especially hard hit by the increase in health care costs. Revenue increases for Massachusetts governmental employers are restricted through Proposition 2 1/2. Money spent on increasingly expensive health benefits must be taken from other areas and programs.
- Here in Massachusetts, municipal governments have adopted creative ways of dealing with the increasing costs of health care. A highly successful effort has been the emergence throughout the Commonwealth of municipal joint purchase groups. These groups are comprised of governmental employers that are pooling risk, gaining economies of scale and bargaining clout with health plans and thereby stabilizing rate increases for their members.
- Through the joint purchase groups, more than 120 local governments have been able to hedge against insurance market volatility by contracting for administrative services to operate health insurance programs, and by paying for health care claims directly. This model has stabilized costs and allowed local governments to maintain the rich benefit programs we offer.
- In this period of steep healthcare cost inflation, local governments are increasingly dependent on the joint purchase group and self-funded risk pool models to keep costs under control and to provide the kinds of innovative solutions that are possible only with large groups.
- Health care costs are projected to rise up to 50% over the next three years (Towers Perrin's 2002 Health Care Cost Survey). Towers Perrin concludes that only major changes, not incremental changes, can reduce cost increases to single digits.
- **The Mass. Labor Relations Commission, in "Dennis Fire Fighters vs. Town of Dennis", has recently ruled that when the Board of a municipal Joint Purchase Group that is made up of representatives of the participating employers wishes to make a change to its benefits programs, participating employers must bargain the decision to make the change.** This contrasts with the situation in which an insurance company makes a change that the Group must accept. In this case, the employers would be required to bargain the *impact* of the changes.

- Some joint purchase groups have many employer members and many unions, ex. Cape Cod Municipal Health Group has 51 employers.
- If joint purchase groups cannot make even minor changes or adjustments to conform with emerging industry standards without the consent of all of the unions or without fulfilling all decision-bargaining obligations, they are not likely to be able to operate efficiently and achieve the goals for which they organized, i.e. the highest quality of health benefits, choice among multiple health plans, and the lowest possible costs.
- Through the systematic filing of challenges to the authority of joint purchase groups to positively manage health insurance programs to the benefit of their members, organized labor groups may inadvertently harm their members by making it impossible to maintain the flexibility to make adjustments to preserve the integrity of the programs.
- Without the ability to modernize health benefits programs, especially in high cost areas such as prescription drugs, local governments and their employees will suffer from runaway inflation which will threaten not just our health benefits but also other valued governmental programs all of which compete for limited revenue dollars.

Conclusion:

The Labor Relations Commission's ruling that employers participating in municipal Joint Purchase Groups in Massachusetts must decision-bargain changes made by the Group impedes operations and the opportunities for the Group to achieve high quality benefit plans at the lowest possible costs. While respecting the bargaining responsibilities of local governments in establishing the conditions of employment for members of collective bargaining associations, it is necessary to establish that impact bargaining, and not decision bargaining, should be the standard for decisions made by a joint purchase group, as it is when insurance companies make changes.

The large number of cases filed with the Labor Relations Commission represents a systematic challenge to the authority of Joint Purchase Groups to achieve the goals that were intended by the enabling legislation of MGL Ch. 32B, Section 12. In the current environment, it is important that the Joint Purchase Groups discuss these issues, demonstrate their value, and develop ways for participating employers to meet bargaining obligations while preserving the ability of the groups to effectively manage their benefit programs in order to achieve their goals.